

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7096

Petition of Central Vermont Public Service )  
Corporation for Consent to extend Letters of Credit )  
and Reimbursement Agreements and Guaranty with )  
Citizens Bank of Massachusetts regarding Millstone )  
Pollution Bonds, Seabrook Pollution Bonds and East )  
Barnet Hydroelectric Bonds, and to Provide Security )  
with Existing First Mortgage Bonds, Series PP, QQ )  
and RR, issued July 30, 1999 )  
)

Order entered: 9/30/2005

**I. INTRODUCTION**

On August 26, 2005, Central Vermont Public Service Corporation (and including CVPS' subsidiary, Central Vermont Public Service Corporation—East Barnet Hydroelectric, Inc. ("CV-EHB")), collectively where appropriate, "Central Vermont", "CVPS" or the "Company", filed a petition pursuant to 30 V.S.A. § 108(a) with the Vermont Public Service Board ("Board"), seeking approval to extend three letters of credit, Reimbursement Agreements and a Guaranty with Citizens Bank of Massachusetts ("Citizens Bank"), for terms expiring November 30, 2006, and to provide security if required by Citizens Bank through re-issuance of the existing First Mortgage Bonds, Series PP, QQ and RR, issued July 30, 1999, to secure the Company's indebtedness under each of the Millstone, Seabrook, and East Barnet Bonds.

In support of this petition, Central Vermont submitted the prefiled testimony and exhibits of Jean H. Gibson, Senior Vice President, Chief Financial Officer and Treasurer for the Company.

By letter dated August 25, 2005, CVPS gave notice of the petition to the Vermont Department of Public Service ("DPS" or the "Department") and requested a determination from the Department pursuant to 30 V.S.A. § 202(f) that extension of the letters of credit, the Reimbursement Agreements and the Guaranty with Citizens Bank, and the provision of security through re-issuance of the existing First Mortgage Bonds, Series PP, QQ and RR, as proposed by the Company are consistent with the Vermont Twenty-Year Plan. The Department's Determination Under 30 V.S.A. § 202(f), was filed with the Board

on September 27, 2005 (the "DPS Determination"). In the DPS Determination, the Department notified the Board that the DPS waives its rights under 3 V.S.A. § 811 and its opportunity for hearing under 30 V.S.A. § 108(a), provided the Board adopts the recommendations and conditions contained in the DPS Determination<sup>1</sup> (the "DPS Waiver"). CVPS waived its rights under 3 V.S.A. § 811 and its opportunity for hearing under 30 V.S.A. § 108(a) and agreed to the Board adopting the recommendations and conditions contained in the DPS Determination (the "CVPS Waiver and Agreement").

In accordance with CVPS' request, the Board notified the Connecticut Department of Public Utility Control ("CT DPUC") that the Board was exercising jurisdiction over the petition.

I have reviewed the petition, the DPS Determination, the DPS Waiver, the CVPS Waiver and Agreement and the supporting testimony and exhibits. I conclude that approval of CVPS' petition to extend the three letters of credit, Reimbursement Agreements and the Guaranty with Citizens Bank, for terms expiring November 30, 2006, and to provide security if required by Citizens Bank through re-issuance of the existing First Mortgage Bonds, Series PP, QQ and RR, issued July 30, 1999, to secure the Company's indebtedness under each of the Millstone, Seabrook, and East Barnet Bonds, all as described in the petition, prefiled testimony and exhibits, pursuant to 30 V.S.A. § 108(a), is appropriate and that such approval may occur without hearing.

Based upon the agreements and statements contained in the petition, the DPS Determination, the DPS Waiver, the CVPS Waiver and Agreement and the supporting testimony and exhibits presented in this Docket, I hereby report the following findings and conclusions to the Board in accordance with 30 V.S.A. § 8.

## **II. FINDINGS**

1. Central Vermont and its subsidiary, Central Vermont Public Service Corporation—East Barnet Hydroelectric, Inc, are companies as defined by 30 V.S.A. § 201, and are subject to the jurisdiction of the Board pursuant to 30 V.S.A. § 203. Petition at 1.

2. The Company and CV-EBH request Board approval to extend the three letters of credit, Reimbursement Agreements and the Guaranty with Citizens Bank, for terms that expire November 30, 2006, and to provide security if required by Citizens Bank. The present letters of credit expire on November 30, 2005. The general terms and cost of these extended letters of credit are provided in the "Summary of Proposed Terms and Conditions," dated August 22, 2005, provided as Exhibit JHG-1 (the "Term Sheet"). Gibson pf. at 2.

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1. The statute does not require a hearing, but rather the opportunity for a hearing. 30 V.S.A. § 108.

3. The Company requests Board approval in mid to late September, 2005, and no later than September 28, 2005, to allow for a closing before October 1, 2005, so that the extensions are in place within the time frame required by each of the underlying Indentures. Without the extensions in place, the Company would be required to redeem the underlying industrial development bonds which these letters of credit secure. Gibson pf. at 2, 3.

4. Prior Docket No. 5043 (consolidated in 2004 into Docket No. 7002) concerns the Millstone bonds. These bonds were issued by the Connecticut Development Authority pursuant to an Indenture dated December 1, 1985, in the principal amount of \$5,000,000, to mature on December 1, 2015. The purpose of the bond issue was to fund certain pollution control devices at the Millstone nuclear project, in which CVPS has an ownership interest. The Millstone bonds are currently secured by a letter of credit issued by Citizens Bank in the amount of \$5,133,562 (including \$133,562 of interest). In 2002, Citizens Bank replaced Toronto-Dominion as the bank issuing the letter of credit. CVPS' obligation to reimburse Citizens Bank in the event of a draw on the letter of credit is contained in the Reimbursement Agreement with Citizens Bank, dated March 1, 2002, as originally approved in Docket No. 5043 and amended in Docket No. 7002. Gibson pf. at 4.

5. Prior Docket No. 4945 (consolidated in 2004 into Docket No. 7002) concerns the Seabrook bonds. These bonds were issued by the New Hampshire Industrial Development Authority pursuant to an Indenture dated December 1, 1984, in the principal amount of \$5,500,000, to mature on December 1, 2009. In 2002, the Company redeemed \$50,000 of the Seabrook bonds. The purpose of the bond issue was to fund certain pollution control devices at the Seabrook nuclear project, in which CVPS had an ownership interest at the time of the issuance of the bonds. The Seabrook bonds are currently secured by a letter of credit issued by Citizens Bank in the amount of \$5,736,125 (including \$286,125 of interest). In 2002, Citizens Bank replaced Toronto-Dominion as the bank issuing the letter of credit. CVPS' obligation to reimburse Citizens Bank in the event of a draw on the letter of credit is contained in the Reimbursement Agreement with Citizens Bank, dated March 1, 2002 as approved in Docket No. 4945 and amended in Docket No. 7002. Gibson pf. at 4, 5.

6. Prior Docket No. 4817 (consolidated in 2004 into Docket No. 7002) concerns the East Barnet bonds. These bonds were issued by the Vermont Industrial Development Authority pursuant to an Indenture dated December 1, 1983, in the principal amount of \$5,800,000, to mature on December 1, 2013. The purpose of the bond issue was to fund development of a hydroelectric project owned by Central Vermont Public Service Corporation-East Barnet Hydroelectric, Inc. ("CV-EBH"), a wholly-owned subsidiary of the Company. The East Barnet bonds are currently secured by a letter of credit

issued by Citizens Bank in the amount of \$6,015,275.35 (including \$215,275.35 of interest). CV-EBH's obligation to reimburse Citizens Bank in the event of a draw on the letter of credit is contained in the Reimbursement Agreement with Citizens Bank, dated March 1, 2002, as approved in Docket No. 4817 and amended in Docket No. 7002. CV-EBH's obligations to Citizens Bank are guaranteed by CVPS pursuant to the Guaranty, dated March 1, 2002, made by CVPS in favor of Citizens Bank, as approved in Docket No. 4817, and renewed yearly, with the last renewal approved in Docket No. 7002. Gibson pf. at 5, 6.

7. The interest rates at December 31, 2004, were: Millstone 1.90% (variable monthly); Seabrook 3.75% (fixed for 5-year periods); and East Barnet Bonds 1.80% (variable monthly). The Seabrook Bonds remarket every five years, and were remarketed effective December 1, 2004. It was not economic to remarket the Seabrook Bonds as unsecured debt. Gibson pf. at 6.

8. Citizens Bank has offered an extension term through November 30, 2006. For this term, Citizens is waiving its per-renewal fee of \$10,000 for all three facilities (not each). There is an annual fee, payable quarterly in arrears, at a rate which is dependent upon CVPS' sour credit rating, and whether the facilities are secured by First Mortgage Bonds or are unsecured. Exh. JHG-1; Gibson pf. at 6.

9. The letter of credit facilities had been secured by First Mortgage Bonds, Series PP, QQ and RR, issued July 30, 1999 (the "FM Bonds"). The granting of these security interests had been approved in Docket No. 6247, in the Order issued July 9, 1999, in which a \$75 million financing through second mortgage bonds was also approved. In 2004, Citizens Bank agreed to release its security interest in those FM Bonds, and the FM Bonds have been held in CVPS' Treasury. The FM Bonds continue to be "authorized and issued," but are not held as security by any party. CVPS acknowledges the only purpose of these FM Bonds, as approved by both the Public Service Board and its Board of Directors, is for security for the letter of credit facilities. Gibson pf. at 6, 7.

10. As a result of the current circumstances created by the recent credit rating downgrades, Citizens Bank may request that the Company again provide the security represented by the First Mortgage Bonds, Series PP, QQ and RR. Gibson pf. at 7. By letter dated August 30, 2005, the Company informed the Board that Citizens Bank has requested that the Company provide such security. Letter from K. Picton, August 30, 2005. Accordingly, the Company is requesting approval, under 30 V.S.A. §108, to grant to Citizens Bank the security interest represented by those FM Bonds. No new First Mortgage Bonds will need to be issued; CVPS would simply cause the FM Bonds held in Treasury to be re-issued by the Bond Trustee to Citizens. Gibson pf. at 7.

11. CVPS would prefer the facilities to be secured, as this reduces its cost for the facilities by about \$60,000 per year. Gibson pf. at 7.

12. The rate on the letter of credit facilities is based on the credit rating. If the FM Bonds secure the facilities, then the rate is based on CVPS' senior secured debt rating (which is a different rating than the corporate credit rating). The current senior secured rating applicable to CVPS's First Mortgage Bonds is BBB by both S&P and Fitch, which is still investment grade for secured debt (at this time last year, the ratings were BBB+ by both agencies). Pursuant to the chart, the present rate for a secured facility is 90 basis points. Gibson pf. at 8.

13. If the facilities are unsecured, CVPS' corporate credit rating applies. As the Board is aware, the Company's corporate credit rating was lowered to BB+ following the recent Order in Docket Nos. 6946 and 6988; BB+ is below investment grade. The fee according to the pricing chart is 125 basis points. Gibson pf. at 8.

14. In the event the ratings increase or decrease or the facilities become secured (or unsecured), the pricing would adjust accordingly. Gibson pf. at 8.

15. For this renewal, incidental fees include \$100 per amendment, if any, and a \$250 fee per drawing. Reporting requirements and conditions precedent remain the same as in the current agreements. The Company will pay the usual closing, legal and documentation expenses. Gibson pf. at 8, 9.

16. Draft financing documents were not provided with the Petition. The Company anticipates no material or adverse changes from current conditions in the terms and conditions of each new document or the overall transaction (other than reinstating the security interest through the FM Bonds) and, accordingly, it initiated its request for Board approval based upon Exhibit JHG-1. As CVPS has done in its prior financing dockets before the Board, it shall promptly inform the Board and Department of any adverse changes in any material terms of the transaction, and will file a set of the principal documents after the closing. Gibson pf. at 9.

17. The extended letters of credit, Reimbursement Agreements and the Guaranty proposed herewith, the Company's obligations thereunder, and the security interests provided by the First Mortgage Bonds, Series PP, QQ and RR, are consistent with the Department of Public Service's Vermont Twenty-Year Electric Plan. Extending the letters of credit, as well as maintaining the underlying bonds in place now and in the future provides the Company with low cost debt and financial stability. In addition, extending the security provided by the letters of credit, maintaining the current rating of the underlying bonds, and avoiding the requirement to offer to repurchase the outstanding bonds, all contribute to the financial stability of the Company. Gibson pf. at 9, 10.

18. The Company's and CV-EBH's Boards of Directors have approved these transactions; the resolutions were provided as Exhibit JHG-2.

19. The Department has issued the DPS Determination, noticing the Board that the transactions described in CVPS' petition, prefiled testimony and exhibits are consistent with the Vermont Twenty-Year Plan. The DPS Determination does not imply approval by the DPS of the capital structure resulting from any financing, or use of funds for purposes other than those specifically described in the petition. DPS Determination.

20. CVPS has agreed to the recommendations and conditions in the DPS Determination. CVPS Waiver and Agreement.

21. Approval of CVPS' request to extend three letters of credit, Reimbursement Agreements, and the Guaranty with Citizens Bank of Massachusetts ("Citizens Bank"), for terms expiring on November 30, 2006, to secure the Company's indebtedness under each of the Millstone, Seabrook, and East Barnet Bonds, and to provide the security represented by the First Mortgage Bonds, Series PP, QQ and RR, all as described in the petition, prefiled testimony and exhibits, pursuant to 30 V.S.A. § 108(a), will be consistent with the general good of the State of Vermont as required by 30 V.S.A. § 108(a).

### **III. DISCUSSION**

On the basis of the evidence of record, I recommend that the terms and conditions proposed by CVPS to extend three letters of credit, Reimbursement Agreements, and the Guaranty with Citizens Bank of Massachusetts ("Citizens Bank"), for terms expiring on November 30, 2006, to secure the Company's indebtedness under each of the Millstone, Seabrook, and East Barnet Bonds, and to provide the security represented by the First Mortgage Bonds, Series PP, QQ and RR, all as described in the petition, prefiled testimony and exhibits, pursuant to 30 V.S.A. § 108(a), will be consistent with the general good of the State of Vermont as required by 30 V.S.A. § 108(a), and should be approved by the Board as consistent with the general good of the State of Vermont. I also recommend that this matter be decided without hearing pursuant to Board Rule 2.219.

All parties to this proceeding have waived the opportunity to comment on this Proposal for Decision in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 30<sup>th</sup> day of September, 2005.

s/Ennis John Gidney

Ennis John Gidney

Hearing Officer

**IV. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Findings, Conclusion and recommendations of the Hearing Officer are adopted.
2. The terms and conditions proposed by CVPS to extend three letters of credit, Reimbursement Agreements, and the Guaranty with Citizens Bank of Massachusetts ("Citizens Bank"), for terms expiring on November 30, 2006, to secure the Company's indebtedness under each of the Millstone, Seabrook, and East Barnet Bonds, and to provide the security represented by the First Mortgage Bonds, Series PP, QQ and RR, all as described in the petition, prefiled testimony and exhibits, pursuant to 30 V.S.A. § 108, are approved.
3. This Order does not constitute approval of any particular capital or operating expenditure nor the underlying capital structure that Central Vermont Public Service Corporation may implement. Nothing in this approval shall preclude the Department or any other party, or the Board, from reviewing and/or challenging those expenditures and/or the Company's resulting capital structure in any future proceeding.
4. CVPS shall provide the Board and the Department with a complete set of final executed documents when they are available.



DATED at Montpelier, Vermont, this 30<sup>th</sup> day of September, 2005.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

Filed: September 30, 2005

Attest: s/Judith C. Whitney  
Acting Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*